

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

COMMERCIAL STREET EXPRESS LLC,  
NICOLE VANDER MUELEN, SHASTA  
BURZYNSKI, and KATHLEEN COULLARD,

Plaintiffs,

v.

SARA LEE CORPORATION, COLGATE-  
PALMOLIVE COMPANY, HENKEL CHEMIE  
VERWALTUNGSGESELLSCHAFT MBH,  
HENKEL CORP., UNILEVER N.V., UNILEVER  
PLC, and UNILEVER UNITED STATES INC.,

Defendants.

Case No. 08 C 1179

Honorable Virginia M. Kendall

**DEFENDANT UNILEVER UNITED STATES, INC.'S MOTION TO DISMISS  
THE AMENDED CLASS ACTION COMPLAINT**

Defendant Unilever United States, Inc. ("Unilever US"), by and through its attorneys and upon its Memorandum of Defendant Unilever United States, Inc. in Support of its Motion to Dismiss ("Memorandum in Support"), and the accompanying declaration (filed herewith), hereby moves this Court for an order, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the Amended Class Action Complaint (the "Complaint") in the above-captioned action with prejudice.

As detailed in its Memorandum in Support, Plaintiff's Complaint necessarily fails because:

- (1) Plaintiffs fail to state a claim for any violation of federal or state law;
- (2) The Court lacks subject matter jurisdiction over Count I, because Plaintiffs do not allege any conduct in or affecting U.S. domestic commerce as required by the Federal Trade Antitrust Improvements Act of 1982, Pub. L. No. 97-290 § 402, 96 Stat. 1233, 1246 (codified at 15 U.S.C. § 6a);

- (3) The Court lacks subject matter jurisdiction over all counts, because Plaintiffs lack Article III standing, because the Complaint does not assert a causal connection between Plaintiffs' alleged injury and the conduct alleged in Germany;
- (4) Count I cannot support a claim for damages, because the Complaint does not allege direct purchases by Plaintiffs as required by *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977);
- (5) Plaintiffs lack standing to pursue Count II to the extent it relies on state law outside Michigan and Wisconsin and lack standing to pursue Count III in its entirety.

WHEREFORE, Unilever US respectfully requests that the Court dismiss Plaintiffs' claims against it and award such other relief as the Court deems just and proper.

Should the Court wish oral argument on the issues raised by the instant Motion, Unilever US would welcome the opportunity.

March 24, 2008

Respectfully submitted,

By: /s/ Britt M. Miller

Ronald S. Rolfe  
Elizabeth L. Grayer  
CRAVATH, SWAINE & MOORE LLP  
Worldwide Plaza  
825 Eighth Avenue  
New York, NY 10019-7475  
(212) 474-1000  
(212) 474-3700 – fax

Sheila Finnegan  
Britt M. Miller  
MAYER BROWN LLP  
71 South Wacker Drive  
Chicago, Illinois 60606  
(312) 782-0600  
(312) 701-7711 – fax

*Attorneys for Unilever United States, Inc.*

**CERTIFICATE OF SERVICE**

I, Britt M. Miller, an attorney, hereby certify that on March 24, 2008, I caused a true and correct copy of the foregoing **DEFENDANT UNILEVER UNITED STATES, INC.'S MOTION TO DISMISS THE AMENDED CLASS ACTION COMPLAINT**, to be filed and served electronically via the court's CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

/s/ Britt M. Miller

Britt M. Miller  
MAYER BROWN LLP  
71 South Wacker Drive  
Chicago, Illinois 60606  
Phone: (312) 782-0600  
Fax: (312) 701-7711  
E-mail: bmill@mayerbrown.com